



DIVISION OF DEVELOPMENTAL DISABILITIES
Olympia, Washington

TITLE:	PROTECTION FROM ABUSE	POLICY 5.13
--------	-----------------------	-------------

Authority: 42 CFR 483.420 (a) (5) and (d)
Chapters 9A.16, 11.88, 11.92, 18.20, 18.51, 18.130, 26.44, 70.124, 70.127,
70.128, 71A.12, 71A.20, 72.36, 74.34 RCW
DSHS Administrative Policy 6.01 - Allegations of Employee Criminal Activity
DSHS Administrative Policy 8.02 - Client Abuse
DSHS Administrative Policy 9.01 - Incident Reporting
Personnel Policy 545 - Investigation of Alleged Employee Misconduct

BACKGROUND:

Two state laws require Department of Social and Health Services (DSHS) employees, volunteers, and contractors to report suspected abuse or neglect of either children or vulnerable adults to the appropriate authorities. Chapter 26.44 RCW mandates the reporting of any suspected abuse or neglect of a child to either DSHS or law enforcement. Chapter 74.34 RCW mandates an immediate report to DSHS of suspected abuse, neglect, abandonment, and financial exploitation of a vulnerable adult. When there is suspected sexual or physical assault of a vulnerable adult, it must be reported to both DSHS and law enforcement.

The vulnerable adult statute divides reporters into two types: mandated and permissive. Mandated reporters include all DSHS employees, service providers, law enforcement officers, social workers, and others (see Definitions section of this policy for complete description).

Under state law, volunteers working in a facility or program providing services to vulnerable adults fall into the permissive category. However, in order for volunteers, interns, and work-study students to work in regional Field Services offices, Residential Habilitation Centers (RHC), and State Operated Living Alternatives (SOLA), they must agree to follow mandatory reporting requirements.

Mandated reporters do not have to witness or have proof that an incident occurred. As long as there is reasonable cause to believe that a child or a vulnerable adult has been abused or neglected, a mandated reporter must report. Similarly, when there is reason to suspect that physical or sexual abuse occurred, the mandated reporter must report.

PURPOSE:

This policy describes the process the Division of Developmental Disabilities (DDD) will use to protect the health, safety and well being of persons served by DDD, and establishes procedures for the reporting of abuse and neglect.

SCOPE:

This policy applies to all DDD employees, contracted service providers, volunteers, interns and work-study students.

POLICY:

Abuse and neglect of children and vulnerable adults is prohibited by law and will not be tolerated. All division employees, contractors, volunteers, interns, and work-study students must report every incident of observed, reported, or suspected abuse, neglect, or mistreatment of clients, as well as injuries of unknown origin. DDD shall process allegations in a manner that ensures prompt investigation and resolution.

In addition to the requirements of this policy, the requirements of DDD Policy 12.01, *Incident Management*, must also be met.

PROCEDURES:**A. REPORTING**

Protecting the client from further harm is the first priority. Once the person is safe, the report must be made at the first opportunity.

1. Reporting to a DSHS Hotline

- a. Any mandated reporter having reasonable cause to believe that client abuse, abandonment, financial exploitation, misappropriation of client property, or neglect occurred must report the incident immediately to the appropriate hotline number as follows:

Reports Involving Children (under 18 years):

DSHS Child Protective Services statewide number: 1-800-562-5624

Reports Involving Adults Living In Their Own Homes:

DSHS Adult Protective Services Regional Numbers:

Region 1: 1-800-459-0421

Region 2: 1-877-389-3013

Region 3: 1-800-487-0416

Region 4: 1-866-221-4909

Region 5:

Kitsap: 1-888-833-4925

Pierce: 1-800-442-5129

Region 6: 1-877-734-6277

Reports Involving Adults Living In Facilities:

Complaint Resolution Unit statewide number: 1-800-562-6078.

- b. An employee may want to consult with a supervisor or other professional staff in making a determination of whether there is reasonable cause to believe abuse or neglect occurred. While this is permissible, it does not relieve the employee from his or her mandated reporting responsibilities if he or she believes abuse or neglect occurred.
- c. If there is reason to suspect that physical or sexual abuse occurred, mandated reporters must also immediately report the incident to the appropriate local law enforcement agency.
- d. A facility/agency may not develop policies or procedures that interfere with the mandatory reporting requirements (RCW 74.34.035).
- e. Failure to report can result in disciplinary action and may constitute a misdemeanor under Washington State law.
- f. Staff who report in good faith are provided immunity from prosecution and protected from dismissal by state law (RCW 70.124.060).
- g. False reports made intentionally, maliciously, or in bad faith constitute a misdemeanor under Washington State law (RCW 74.34.053).

- h. Mandated reporters calling a DSHS Hotline should be prepared to provide, to the extent possible, the information described below in Section 3, Information to be Included in a Report.

2. Reporting to Supervisors

- a. After calling a DSHS Hotline, a mandated reporter must also report the incident to his or her supervisor in the manner and time specified by the facility/agency procedure or within 24 hours, whichever is less. If the immediate supervisor is not available, report the incident to any supervisor or management representative so designated by the facility/agency.
- b. If the person suspected of abuse or neglect is the person to whom the mandated reporter would usually report, report the incident to the next higher supervisor or management representative so designated by the facility/agency.
- c. A report must be made to DDD Central Office within 24 hours. See also DDD Policy 12.01, *Incident Management*, for additional information.

3. Information to be Included in a Report

Each report, oral or written, must contain as much as possible of the following information:

- a. The name and address of the person making the report;
- b. The name and address of the child or vulnerable adult, and the name of the facility providing care, if applicable;
- c. The name and address of the legal guardian or alternate decision maker;
- d. The nature and extent of the abandonment, abuse, financial exploitation, neglect;
- e. Any known history of previous abandonment, abuse, financial exploitation, neglect;
- f. The identity of the alleged perpetrator, if known; and

- g. Other information that may be helpful in establishing the extent of abandonment, abuse, financial exploitation, or neglect.

B. FACILITY/AGENCY PROCEDURES

All division offices/facilities and DDD funded programs and contractors must have written procedures in place to implement this policy and provide training to staff on how to recognize abuse and how to make a report of suspected abuse or neglect. These procedures must be available to all employees and volunteers, and include, at a minimum the following:

1. Instructions for emergency client protection.
2. Timelines for reporting suspected client abuse or neglect.
3. A copy of pertinent federal and state statutes and regulations regarding client abuse and specific types of programs (e.g., foster care, nursing home, residential habilitation center, etc.).
4. Provision for staff training in recognizing abuse and patterns of abuse, client protection, reporting abuse, and evidence preservation.
5. Program-specific telephone numbers and chain of command for reporting purposes.
6. Current telephone numbers of local law enforcement agencies and DSHS reporting units such as Child Protective Services, Adult Protective Services, and the Aging and Adult Services Complaint Resolution Unit.
7. Program-specific procedures that describe the responsibilities of:
 - a. Reporting staff;
 - b. Direct care staff where applicable;
 - c. Supervisory and/or administrative staff; and
 - d. Witnesses.
8. Instructions for coordination with an abuse/neglect specialist such as a sexual assault center.

9. Instructions for notifying local law enforcement if there is reason to suspect that sexual or physical assault have occurred.
 10. Instructions for evidence preservation and collection.
 11. Investigation process and procedures.
 12. Procedures for implementing preventative measures and corrective action; and
 13. Procedures for initiating an external review when a report of known or suspected abuse or neglect involves the acts or omissions of the administrator and/or supervisor(s).
- C. When a DSHS employee is the alleged perpetrator, the appropriate management representative must ensure compliance with Personnel Policy 545, *Investigation of Alleged Employee Misconduct*, and DSHS Administrative Policy 6.01, *Allegations of Employee Criminal Activity*. A referral to the Washington State Patrol is required when a permanent DSHS employee is the alleged perpetrator.

DEFINITIONS PERTAINING TO CHILDREN:

Child or **Children** means any person under the age of eighteen years of age (RCW 26.44.020(6)).

Child Abuse or Neglect means the injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child by any person under circumstances which indicate that the child's health, welfare, and safety is harmed, excluding conduct permitted under RCW 9A.16.100. An abused child is a child who has been subjected to child abuse or neglect as defined in this section (RCW 26.44.020(12)).

Sexual Exploitation includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person (RCW 26.44.020(14)).

Negligent Treatment or Maltreatment means an act or omission that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to the child's health, welfare, and safety (RCW 26.44.020; RCW 70.124.020).

DEFINITIONS PERTAINING TO VULNERABLE ADULTS:

Vulnerable Adult means a person:

- Sixty (60) years of age or older who has the functional, mental, or physical inability to care for himself or herself; **or** is found incapacitated under Chapter 11.88 RCW; **or**
- Who has a developmental disability as defined under RCW 71A.10.020; **or**
- Admitted to licensed facilities, including boarding homes, nursing homes, adult family homes, residential habilitation centers, or any other facility licensed by DSHS; **or**
- Receiving services from home health, hospice or home care agencies licensed or required to be licensed under Chapter 70.127 RCW; **or**
- Receiving services from an individual provider (RCW 74.34.020).

Abandonment means action or inaction by a person with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care (RCW 74.34.020(1)).

Abuse means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a vulnerable adult. In instances of abuse of a vulnerable adult who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a vulnerable adult, which have the following meanings:

- (a) "Sexual abuse" means any form of nonconsensual sexual contact including, but not limited to, unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse includes any sexual contact between a staff person, and a vulnerable adult living in that facility or receiving service from a program authorized under Chapter 71A.12 RCW, whether or not it is consensual.
- (b) "Mental abuse" means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a vulnerable adult from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating, yelling, or swearing.
- (c) "Physical abuse" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an object, slapping, pinching, choking, kicking, shoving, or the use of chemical restraints or physical restraints unless the restraints are consistent with licensing requirements, and includes restraints that are otherwise being used inappropriately.

- (d) "Exploitation" means an act of forcing, compelling, or exerting undue influence over a vulnerable adult causing the vulnerable adult to act in a way that is inconsistent with relevant past behavior, or causing the vulnerable adult to perform services for the benefit of another (RCW 74.34.020 (2a-d)).

Facility means a residence licensed or required to be licensed under Chapter 18.20 RCW, boarding homes; Chapter 18.51 RCW, nursing homes; Chapter 70.128 RCW, adult family homes; Chapter 72.36 RCW, soldiers' homes; or Chapter 71A.20 RCW, residential habilitation centers; or any other facility licensed or operated by the department.

Financial Exploitation means the illegal or improper use of property, income, resources, or trust funds of the vulnerable adult by another person for any person's profit or advantage (RCW 74.34.020(6)).

Mandated Reporter means an employee of the department; law enforcement officer; social worker; professional school personnel; individual provider; an employee of a facility; an operator or an employee of a social service, welfare, mental health, adult day health, adult day care, home health, home care, or hospice agency; county coroner or medical examiner; Christian Science practitioner; or health care provider subject to Chapter 18.130 RCW (RCW 74.34.020(8)).

Misappropriation of Client Property means the deliberate removal, concealment, misplacement, exploitation, or wrongful, temporary, or permanent use of a client's belongings or money without the consent of the person, his or her parents, or guardian.

Neglect means (a) a pattern of conduct or inaction by a person or entity with a duty of care to provide the goods and services that maintain physical or mental health of a vulnerable adult, or that avoids or prevents physical or mental harm or pain to a vulnerable adult; or (b) an act or omission that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the vulnerable adult's health, welfare, or safety (RCW 74.34.020(9)).

Permissive Reporter means any person, employee of a financial institution, attorney, or volunteer in a facility or program providing services for vulnerable adults (RCW 74.34.020(10)).

Reasonable Cause to Believe means a mandated reporter thinks it is probable that abuse, abandonment, neglect, misappropriation of resident property or financial exploitation happened. Probable means that, based on information or evidence readily obtained from various sources, it is likely to have occurred. Sources of information may include:

- Personal observation of the incident;
- The victim of the incident;

- Incident logs, medical records, etc.
- Other persons who may have relevant information;
- Client behavior; and
- Other relevant information.

Reason to Suspect means a mandated reporter thinks, based on information readily obtained from various sources, it is possible that sexual or physical assault could have happened. Sources of information are the same as those listed above for "reasonable cause to believe."

EXAMPLES:

The following examples, which are not all-inclusive, are provided to assist staff in identifying suspected or actual abuse and neglect. While many examples are straightforward, others may be less obvious and need to be considered in a larger context. For ease of understanding, 'client' is used in place of 'child or vulnerable adult.'

A. Physical Abuse:

- Biting
- Choking
- Kicking
- Pinching
- Pushing
- Shaking
- Shoving
- Slapping
- Striking with or without an object
- Twisting limbs (joint torsion)
- Causing or willfully allowing the person to do bodily harm to themselves or
- Causing or willfully allowing another client to physically harm them
- Controlling a person through corporal punishment
- Not allowing the client to eat, drink, or care for physical needs such as elimination
- Retaliation from a physical attack or verbal abuse from a client or in response to a client action
- Using chemical or physical restraints (unless the restraints are consistent with certification or licensing requirements and division policy)
- Using chemical or physical restraints inappropriately
- Using excessive force when restraining an agitated client

B. Sexual Abuse:

- Any sexual contact between a staff/volunteer and a client, whether or not it is consensual
- Inappropriate or unwanted sexual touching
- Intercourse
- Oral Sex
- Rape
- Sexual coercion
- Sexual harassment
- Sexually explicit photographing, filming, or videotaping
- Showing, selling, or otherwise distributing pornographic materials
- Sodomy

C. Mental Abuse:

- Coercion
- Harassment
- Inappropriately isolating a vulnerable adult from family, friends, or regular activity
- Making derogatory or disparaging remarks about a person and/or their family in front of them or within hearing distance of any client
- Oral or written language or gestures that include threats of harm or are intended to frighten clients
- Verbal assault that includes ridiculing, intimidating, yelling, or swearing
- Threatening to or withholding a client's personal belongings or activities

D. Neglect:

- Abandoning clients in situations where other persons, objects or the environment may injure the person
- Allowing the physical environment to deteriorate to the point that people are subject to hazardous situations, such as electrical, water, and structural hazards
- Failure to provide care within acceptable standards
- Failure to promptly respond to medical emergencies or requests for medical treatment
- Failure to follow prescribed treatments or programs
- Failure to attend to clients in hostile or dangerous situations
- Failure to supervise which results in clients wandering away, missing or running away
- Overt refusal to protect the client from physical abuse by another client or staff
- Refusal to protect a child from sexual contact with another child.

E. Exploitation:

- Using clients to perform work that should be done by paid employees
- Using client financial resources for personal gain or activities not related to client care

SUPERSESSION:

Division Policy 5.13
Issued January 13, 1999

Division Policy 5.13
Issued January 1997

Division Policy 5.13
Issued December 1993

Division Policy Directive 103
Issued September 1991

Approved: /s/ Linda Rolfe
Director, Division of Developmental Disabilities

Date: October 15, 2001